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UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

JASON A. MAHE,

Plaintiff,

v.

AWO HARTMAN, *et al.*,

Defendants.

Case No. 3:21-cv-00069-MMD-WGC

ORDER

**I. DISCUSSION**

On April 27, 2021, the Court issued a screening order giving Plaintiff leave to amend some claims and permitting the action to proceed on some claims. (ECF No. 12 at 25-26). The Court granted Plaintiff 30 days from the date of that order to file an amended complaint. (*Id.* at 26). The Court specifically stated that if Plaintiff did not file a timely amended complaint, the action would proceed on the following claims: 1) Eighth Amendment failure to protect claim in Count 2 against Ortiz; 2) retaliation claim against Conlin and Hartman in Claim 1; 3) deliberate indifference to serious medical needs claims against Defendants Conlin, Naughten, RN Manager Megan, RN Melissa, and RN Malorey in Claim 1 alleging based on the alleged removal of the wheelchair; 4) excessive force claim against Hartman in Claim 1. (*Id.*) Plaintiff has not filed an amended complaint within the court-ordered time period, so this action will proceed on those claims.

1       **II.       CONCLUSION**

2               For the foregoing reasons, IT IS ORDERED that, pursuant to the Court's screening  
3 order (ECF No. 12), this action shall proceed on the following claims: 1) Eighth  
4 Amendment failure to protect claim in Count 2 against Ortiz; 2) retaliation claim against  
5 Conlin and Hartman in Claim 1; 3) deliberate indifference to serious medical needs claims  
6 against Defendants Conlin, Naughten, RN Manager Megan, RN Melissa, and RN Malorey  
7 in Claim 1 alleging based on the alleged removal of the wheelchair; 4) excessive force  
8 claim against Hartman in Claim 1.

9               IT IS FURTHER ORDERED that given the nature of the claim(s) that the Court has  
10 permitted to proceed, this action is STAYED to allow Plaintiff and Defendant(s) an  
11 opportunity to settle their dispute before the \$350.00 filing fee is paid, an answer is filed,  
12 or the discovery process begins. Other than objections to the Reports and  
13 Recommendations (ECF Nos. 20, 21), during this stay period and until the Court lifts the  
14 stay, no other pleadings or papers may be filed in this case, and the parties may not  
15 engage in any discovery, nor are the parties required to respond to any paper filed in  
16 violation of the stay unless specifically ordered by the court to do so. Any document with  
17 objections to the Reports and Recommendations shall include objections only and shall  
18 not raise new matters. The Court may strike any documents filed in violation of this order.  
19 The Court will refer this case to the Court's Inmate Early Mediation Program, and the  
20 Court will enter a subsequent order. On or before ninety (90) days from the date this  
21 order is entered, the Office of the Attorney General shall file the report form attached to  
22 this order regarding the results of the stay, even if a stipulation for dismissal is entered  
23 prior to the end of the stay. If the parties proceed with this action, the Court will then issue  
24 an order setting a date for Defendants to file an answer or other response. Following the  
25 filing of an answer, the Court will issue a scheduling order setting discovery and  
26 dispositive motion deadlines.

1 IT IS FURTHER ORDERED that "settlement" may or may not include payment of  
2 money damages. It also may or may not include an agreement to resolve Plaintiff's issues  
3 differently. A compromise agreement is one in which neither party is completely satisfied  
4 with the result, but both have given something up and both have obtained something in  
5 return.

6 IT IS FURTHER ORDERED that if the case does not settle, Plaintiff will be required  
7 to pay the full \$350.00 filing fee. This fee cannot be waived. If Plaintiff is allowed to  
8 proceed in forma pauperis, the fee will be paid in installments from his prison trust  
9 account. 28 U.S.C. § 1915(b). If Plaintiff is not allowed to proceed in forma pauperis, the  
10 \$350.00 will be due immediately.

11 IT IS FURTHER ORDERED that if any party seeks to have this case excluded from  
12 the inmate mediation program, that party shall file a "motion to exclude case from  
13 mediation" on or before twenty-one (21) days from the date of this order. The responding  
14 party shall have seven (7) days to file a response. No reply shall be filed. Thereafter, the  
15 Court will issue an order, set the matter for hearing, or both.

16 IT IS FURTHER ORDERED that the Clerk of the Court shall electronically SERVE  
17 a copy of this order, the original screening order (ECF No. 12) and a copy of Plaintiff's  
18 complaint (ECF No. 5) on the Office of the Attorney General of the State of Nevada, by  
19 adding the Attorney General of the State of Nevada to the docket sheet. This does not  
20 indicate acceptance of service.

21 IT IS FURTHER ORDERED that the Attorney General's Office shall advise the  
22 Court within twenty-one (21) days of the date of the entry of this order whether it will enter  
23 a limited notice of appearance on behalf of Defendants for the purpose of settlement. No  
24 defenses or objections, including lack of service, shall be waived as a result of the filing  
25 of the limited notice of appearance.

26 DATED: June 2, 2021.

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28 UNITED STATES MAGISTRATE JUDGE

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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

JAMES A. MAHE,  
Plaintiff,  
v.  
AWO HARTMAN, et al.,  
Defendants.

Case No. 3:21-cv-00069-MMD-WGC  
REPORT OF ATTORNEY GENERAL  
RE: RESULTS OF 90-DAY STAY

**NOTE: ONLY THE OFFICE OF THE ATTORNEY GENERAL SHALL FILE THIS FORM.  
THE INMATE PLAINTIFF SHALL NOT FILE THIS FORM.**

On \_\_\_\_\_ [*the date of the issuance of the screening order*], the Court issued its screening order stating that it had conducted its screening pursuant to 28 U.S.C. § 1915A, and that certain specified claims in this case would proceed. The Court ordered the Office of the Attorney General of the State of Nevada to file a report ninety (90) days after the date of the entry of the Court's screening order to indicate the status of the case at the end of the 90-day stay. By filing this form, the Office of the Attorney General hereby complies.

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## REPORT FORM

[Identify which of the following two situations (identified in bold type) describes the case, and follow the instructions corresponding to the proper statement.]

**Situation One: Mediated Case: The case was assigned to mediation by a court-appointed mediator during the 90-day stay.** [If this statement is accurate, check ONE of the six statements below and fill in any additional information as required, then proceed to the signature block.]

\_\_\_\_\_ A mediation session with a court-appointed mediator was held on \_\_\_\_\_ [enter date], and as of this date, the parties have reached a settlement (even if paperwork to memorialize the settlement remains to be completed). (If this box is checked, the parties are on notice that they must SEPARATELY file either a contemporaneous stipulation of dismissal or a motion requesting that the Court continue the stay in the case until a specified date upon which they will file a stipulation of dismissal.)

\_\_\_\_\_ A mediation session with a court-appointed mediator was held on \_\_\_\_\_ [enter date], and as of this date, the parties have not reached a settlement. The Office of the Attorney General therefore informs the Court of its intent to proceed with this action.

\_\_\_\_\_ No mediation session with a court-appointed mediator was held during the 90-day stay, but the parties have nevertheless settled the case. (If this box is checked, the parties are on notice that they must SEPARATELY file a contemporaneous stipulation of dismissal or a motion requesting that the Court continue the stay in this case until a specified date upon which they will file a stipulation of dismissal.)

\_\_\_\_\_ No mediation session with a court-appointed mediator was held during the 90-day stay, but one is currently scheduled for \_\_\_\_\_ [enter date].

\_\_\_\_\_ No mediation session with a court-appointed mediator was held during the 90-day stay, and as of this date, no date certain has been scheduled for such a session.

\_\_\_\_\_ None of the above five statements describes the status of this case. Contemporaneously with the filing of this report, the Office of the Attorney General of the State of Nevada is filing a separate document detailing the status of this case.

\* \* \* \* \*

**Situation Two: Informal Settlement Discussions Case: The case was NOT assigned to mediation with a court-appointed mediator during the 90-day stay; rather, the parties were encouraged to engage in informal settlement negotiations.** [If this statement is accurate, check ONE of the four statements below and fill in any additional information as required, then proceed to the signature block.]

\_\_\_\_\_ The parties engaged in settlement discussions and as of this date, the parties have reached a settlement (even if the paperwork to memorialize the settlement remains to be completed). (If this box is checked, the parties are on notice that they must SEPARATELY file either a contemporaneous stipulation of dismissal or a motion requesting that the Court continue the stay in this case until a specified date upon which they will file a stipulation of dismissal.)

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\_\_\_\_\_ The parties engaged in settlement discussions and as of this date, the parties have not reached a settlement. The Office of the Attorney General therefore informs the Court of its intent to proceed with this action.

\_\_\_\_\_ The parties have not engaged in settlement discussions and as of this date, the parties have not reached a settlement. The Office of the Attorney General therefore informs the Court of its intent to proceed with this action.

\_\_\_\_\_ None of the above three statements fully describes the status of this case. Contemporaneously with the filing of this report, the Office of the Attorney General of the State of Nevada is filing a separate document detailing the status of this case.

Submitted this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ by:

Attorney Name:	_____	_____
	Print	Signature

Address:	_____	Phone: _____
	_____	_____
		Email: _____
		_____